

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

MARY GOLDSMITH,)	
)	
Plaintiff,)	
)	
v.)	No. _____
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

MARY GOLDSMITH, Plaintiff, complains of the UNITED STATES OF AMERICA, Defendant, and would respectfully show the Court the following:

I.

This action arises under the Federal Tort Claims Act, 28 U.S.C., Section 1346(b) and 2661 et seq.

II.

Plaintiff at the time of the events complained of, resided in the above entitled judicial district. Venue in the El Paso Division is appropriate based on 28 U.S.C., Section 1391(e).

III.

At all relevant times, Defendant UNITED STATES OF AMERICA, by and through its agency the Department of the Army, owned and operated a hospital known as William Beaumont Army Medical Center in El Paso, Texas.

IV.

At all times herein mentioned, Plaintiff was treated by doctors, nurses, and other medical staff, some of which are unknown to the Plaintiff, all of whom were employed as doctors, nurses and other medical assistants at William Beaumont Army Medical Center in El Paso, Texas. In doing or omitting to do all of the things alleged herein, the Defendant, and agents of the Defendant, were acting within the course and scope of their employment, and with the permission and consent of the Defendant.

V.

On or about July 14, 2008, Plaintiff underwent a diagnostic laparoscopic surgery at William Beaumont Army Medical Center. During the procedure the small bowel near the jejunal-ileal junction was lacerated and/or damaged but was not recognized by Defendant's surgeons at the time.

In the post-operative period Plaintiff become very sick with peritonitis and was returned to surgery on July 15, 2008. The injury to the small bowel was discovered and repaired. Plaintiff remained in the hospital for 10 more days, 8 of which were in ICU due to severe peritonitis.

VI.

The Defendant, and the agents of the Defendant, were negligent in one or more of the following:

1. Causing injury to the small bowel during the diagnostic laparoscopic surgery and failing to recognize it intra-operatively and repair it; and
2. Failing to properly perform the laparoscopic diagnostic laparoscopic surgery.

VII.

As a direct and proximate result of one or more of the following acts or omissions, Plaintiff suffered the following damages, both past and future:

- a. Physical pain and mental anguish;
- b. Disfigurement;
- c. Physical impairment;
- d. Medical care and expense; and
- e. Lost earnings.

By reason of the foregoing the Plaintiff has been damaged in the sum of TWO HUNDRED SIXTY THOUSAND DOLLARS (\$260,000.00).

VIII.

Plaintiff's administrative claim was denied on July 17, 2014. This lawsuit is filed within six months of that date.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited and served to appear and answer, and upon final trial of this cause, Plaintiff have judgment against the Defendant in the sum of TWO HUNDRED SIXTY DOLLARS (\$260,000.00), and for such other and further relief, both general and special, at law and in equity to which Plaintiff may be justly entitled.

Respectfully submitted,

BOYAKI LAW FIRM

Attorneys at Law

4621 Pershing Drive

El Paso, Texas 79903

Tel.: (915) 566-8688

Fax : (915) 566-5906

By: /s/ John Mundie

JOHN MUNDIE

Attorney for Plaintiff

State Bar No. 14665300

Email: Mun6012@aol.com